

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

SIA HENRY, et al.,

Plaintiffs,

vs.

BROWN UNIVERSITY, et al.,

Defendants.

) Docket No. 22 C 125

) Chicago, Illinois
) June 18, 2024
) 12:45 o'clock a.m.

TRANSCRIPT OF PROCEEDINGS
BEFORE THE HONORABLE MATTHEW F. KENNELLY

APPEARANCES:

For the Plaintiffs: ROCHE FREEDMAN LLP
BY: MR. EDWARD J. NORMAND
99 Park Avenue, Suite 1910
New York, NY 10016
(646) 970-7513

GILBERT LITIGATORS & COUNSELORS
BY: MR. ROBERT DEWITT GILBERT
11 Broadway, Suite 615
New York, NY 10004
(646) 448-5269

Court Reporter: MS. CAROLYN R. COX, RPR, CRR, FCRR
Official Court Reporter
219 S. Dearborn Street, Suite 2102
Chicago, Illinois 60604
(312) 435-5639

1 APPEARANCES CONTINUED:

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

BERGER MONTAGUE PC
BY: MS. ELLEN NOTEWARE
2001 Pennsylvania Avenue, NW
Suite 300
Washington, DC 20006
202-559-9745

Cornell University: KIRKLAND & ELLIS
BY: MS. EMILY T. CHEN
601 Lexington Avenue
New York, NY 60654
(312) 862-2000

Dartmouth College: JENNER & BLOCK LLP
BY: MS. TERRI LYNN MASCHERIN
353 N. Clark Street
Chicago, IL 60654
(312) 222-9350

Georgetown University: MAYER BROWN LLP
BY: MS. BRITT MARIE MILLER
MR. GEORGE FENSKE
71 South Wacker Drive
Chicago, IL 60606
(312) 782-0600

Massachusetts
Institute of
Technology: FRESHFIELDS BRUCKHAUS DERINGER
BY: MR. JAN RYBNICEK
700 13th St NW, 10th Floor
Washington, DC 20005-3960
(202) 777-4500

1 APPEARANCES CONTINUED:

2

3 University of
4 Pennsylvania:

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

WILMER CUTLER PICKERING HALE AND DORR LLP
BY: MS. ARIELLE HERZBERG
1225 17th Street, Suite 2600
Denver, Colorado 80202
(720) 274-3135

WILMER CUTLER PICKERING HALE AND DORR LLP
BY: MR. DAVID GRINGER
7 World Trade Center
New York, NY 10007
(212) 230-8864

1 (The following proceedings were had in open court:)

2 THE CLERK: Case 22 C 125, Henry v. Brown.

3 THE COURT: Good afternoon. So welcome to anybody
4 who is listening on the phone. I don't know who wants to give
5 your appearances for the record here. Anybody want to?
6 Nobody's jumping for the podium.

7 MR. FRIEDLAND: On the phone you mean, your Honor?

8 THE COURT: No, here.

9 MR. NORMAND: Edward Normand, Freedman Normand
10 Friedland, for the plaintiffs.

11 MR. GILBERT: Robert Gilbert, Gilbert Litigators, for
12 the plaintiffs

13 MS. NOTEWARE: Ellen Noteware from Berger Montague
14 for the plaintiffs.

15 MR. GRINGER: Good afternoon, your Honor. Steven
16 Gringer from Wilmer Hale for Penn.

17 MR. FENSKE: Good afternoon, your Honor, Dan Fenske
18 and Britt Miller from Mayer Brown for Georgetown.

19 MR. RYBNICEK: Good afternoon, your Honor. Jan
20 Rybnicek from Freshfields for MIT.

21 THE COURT: Okay. So if I'm -- if I got everything
22 down right, we have a hearing date in the middle of July on
23 the motion for final approval of the however many settlements
24 there are. It's something like July the 19th. And so that's
25 not really on the table today.

1 And the status report, basically, largely contains a
2 discussion about confidentiality and sealing and things like
3 that, and I think I put in an order saying that everybody
4 ought to be prepared to talk about this today. So that's what
5 I'd kind of like to do.

6 And I know we have people on the phone, but the phone
7 thing is just kind of a courtesy for people who didn't want to
8 come. This was always going to be an in-person hearing. And
9 I guess my inclination -- that's why I was counting the room
10 here. I think we've got about 16 people. My inclination
11 would basically just be to have a discussion without the court
12 reporter about this just so we can kind of have an exchange of
13 views because I'm not ruling on anything today. I just want
14 to talk about parameters and get people's input and thoughts
15 and give you kind of what my thinking is. And so that's --
16 unless somebody wants to -- unless somebody wants to jump up
17 and say, no, there's somebody really crucial on the phone that
18 has to be able to hear, in which case, do that right now.

19 (Brief pause.)

20 THE COURT: Okay. Nobody jumped up.

21 So is there anything -- before we talk about sealing
22 issues, is there anything else that anybody wants to talk
23 about today? Any other issues that anybody wants to put on
24 the table?

25 Mr. Gringer.

1 MR. GRINGER: Sure, your Honor.

2 THE COURT: The only way the phone people can hear
3 you is if you're talking into a mic.

4 MR. GRINGER: These are, I think, very quick good
5 news. In our status report, we had an issue about expert --
6 the timing of expert reports based on receipt of backup
7 materials. The parties have agreed that defendants' expert
8 reports will be due on August 7th, which is ten days after
9 they're currently due in the schedule, and that should not
10 necessitate any other changes to the case management order.

11 THE COURT: I'm good with that. That's just fine,
12 obviously.

13 MR. GRINGER: The other issue that I think we would
14 benefit from the Court's guidance, we had noted in our status
15 report that we had just received some declarations from
16 plaintiffs after the close of discovery. You know, we haven't
17 finalized our position yet, but it does to us appear that we
18 may wish to take some discovery from one school's declarants
19 via documents or potentially depositions. I don't think
20 there's an objection from the plaintiffs to that so long as if
21 there is a deposition, they get some time, which I think would
22 be normal and understood. So I don't know if the Court, you
23 know --

24 THE COURT: So maybe I'm looking at the wrong status
25 report. The one I'm looking at is dated June the 11th.

1 MR. GRINGER: Yes.

2 THE COURT: It doesn't talk about declarations. It
3 talks about new discovery requests.

4 MR. GRINGER: Well, the source of those new discovery
5 requests was because we got --

6 THE COURT: Ah.

7 MR. GRINGER: -- declarations from certain settling
8 defendants.

9 THE COURT: Okay.

10 MR. GRINGER: And we were evaluating --

11 THE COURT: Declarations, you said, from settling
12 defendants?

13 MR. GRINGER: Correct. And that may necessitate --
14 that were in the plaintiffs' possession.

15 THE COURT: Now I understand. You might think you
16 need to take depositions of those people.

17 MR. GRINGER: I think a very small number, but
18 perhaps one or two of a single settling defendant.

19 THE COURT: Somebody remind me what the dispositive
20 motion deadline is.

21 MR. GRINGER: It is in -- I want to say January.

22 THE COURT: So that's the date that's not going to
23 move.

24 MR. GRINGER: Certainly.

25 THE COURT: That's not the date that's going to move.

1 MR. GRINGER: Understood.

2 THE COURT: As long as everybody understands that.
3 It's not the first time I've said that. As long as everybody
4 understands that, if you can come up with some agreement to
5 take depositions beyond the -- beyond the fact discovery
6 cutoff date, which I know has come and gone, I'm okay with
7 that. That's fine.

8 MR. GRINGER: Thank you, your Honor.

9 THE COURT: If you don't agree, then somebody's going
10 to have to come in here and make a motion of some sort.

11 MR. GRINGER: Understood.

12 THE COURT: Does that give you enough info to go
13 ahead?

14 MR. GRINGER: It does here.

15 MR. NORMAND: That's fine, your Honor. As
16 Mr. Gringer says, we're okay with the depositions. We
17 understand why they're asking for them. It sounds like a
18 small number, and we would just want some commensurate time
19 even if we're not taking the lead on taking the deposition.

20 THE COURT: Yeah, I'm sure you can work that all out.

21 MR. NORMAND: We can work it out.

22 THE COURT: Anything else anybody can think of?

23 Okay. So since I don't know who is on the phone,
24 we're going to cut off the phone. We're just -- I don't have
25 my jury -- since I'm -- the tradeoff for getting a corner

1 office that's bigger in here is that they take it out of your
2 jury room. So I have a small jury room; bigger chambers. We
3 don't have enough room in the jury room for 16 people, at
4 least I don't think so. It would be pretty tight in there and
5 no other room. So I'm just going to sit here and people can
6 kind of gather around the tables.

7 So we're going to cut off the phone because we're
8 going to talk about stuff that's under seal or, by definition,
9 under seal at the moment. So we're going off the record and
10 we're cutting off the phone.

11 (Discussion off the record.)

12 (Which were all the proceedings had in the above-entitled
13 cause on the day and date aforesaid.)

14 I certify that the foregoing is a correct transcript from
15 the record of proceedings in the above-entitled matter.

16 /s/ Carolyn R. Cox, RPR, F/CRR June 18, 2024
17 Official Court Reporter
18 United States District Court
19 Northern District of Illinois
20 Eastern Division
21
22
23
24
25